

Agenda No.:
Public Hearing: Variance Request V09-0008
Owner(s): Capital Telecom

DESCRIPTION:

A request for a variance to the Comprehensive Zoning Ordinance to reduce the rear setback from 90 feet to 27 feet for a commercial cell antenna, described as Home Depot Addition, Block 1, Lot 1, also described as 5995 Eldorado Parkway. Zoned Planned Development-156-Retail. Neighborhood #46. Tabled 1/6/10.

This item must be removed from the table.

At the January 6, 2010 meeting the Board tabled this item to allow the applicant time to provide engineering information on the possibility of using an antenna designed with a break point. The attached documents have been provided by the applicant in support of their variance application. The letter and drawing have been sealed by an engineer licensed in Texas.

APPLICABLE ORDINANCE PROVISION:

Article II, Section 3.04

No. 36.B.1 Antenna support structures shall be setback a distance equal to or greater than the tower's height.

REMARKS:

The applicant is requesting a variance to reduce the rear yard setback from 90 feet to 27 feet to place a commercial cell antenna on the southeastern corner of the Home Depot site located on Eldorado Parkway. The attached exhibits identify the location of the proposed antenna as well as the overall height of the antenna. Also attached is the applicant's application which includes their responses to the four criteria.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that:

1. The requested variance does not violate the intent of the Comprehensive Zoning Ordinance or its amendments.

Granting the requested variance will violate the intent of the Ordinance as the setback was created such that if a tower or antenna does collapse it will only collapse on the subject property and not on adjacent properties. Any potential damage will be limited to the subject property only. Reducing the setback creates the possibility of damage to the adjacent property.

2. Special conditions or restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district.

Staff finds that no special conditions or restricted area, shape, topography, or physical features exist that are peculiar to the subject property and are not applicable to the other parcels of land in the same zoning district. Parcels to the east, north, and west share the same characteristics as does the subject property. In addition these properties are vacant and would offer other locations for cell antennas. The applicant indicates the antenna could not be located on the northern portion of the property due to site limitations. Staff is not aware of what these limitations would be as it would appear that there is area north of the building that could accommodate an antenna.

3. The hardship is in no way the result of the applicant's own actions.

The applicant indicates that the hardship is created by the development of the property and the construction of a building on the site. While the applicant is not responsible for the existing development on the site, they are responsible for choosing this exact location on the property while other locations exist on the site as well as on surrounding properties. Even though the applicant has other options they have chosen one specific location and are creating their own need for a variance to meet the setback requirements.

4. The interpretation of the provisions in the Comprehensive Zoning Ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

The interpretation of the provisions of the Ordinance does not deprive the applicant of rights commonly enjoyed by other properties. Other properties in the same zoning district have the same setback requirement for antennas as does the subject property. The subject property and the variance request are not being denied a right that exists for other properties.

RECOMMENDATION:

Staff recommends denial of the variance request.